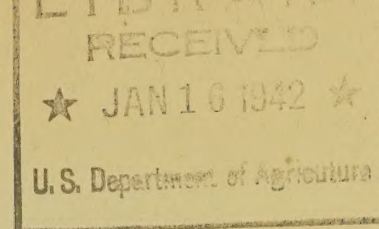


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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Southern Division

SOUTHERN REGION BULLETIN 510

PROCEDURE FOR HANDLING CASES UNDER THE 1941 AGRICULTURAL CONSERVATION
PROGRAM WHERE THE FARM COTTON ACREAGE ALLOTMENT HAS BEEN OVERPLANTED

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1. - GENERAL

This procedure is for the guidance of the county and State committees in determining whether overplanting in 1941 of a cotton acreage allotment was done knowingly or unknowingly and provides for the maintenance of such records as are necessary in order that where a producer knowingly overplants a cotton acreage allotment the proper authorities in the States of the Southern Region or in other Regions in which the producer would otherwise receive payment may be so advised.

Any person who knowingly plants cotton in 1941 on a farm in excess of the cotton acreage allotment established for the farm for that year is not eligible to receive or retain any payment under the 1941 Agricultural Conservation Program, the 1941 Range Conservation Program, or the 1941 Naval Stores Conservation Program. If cases should arise where the official notice given to the farm operator incorrectly stated the allotment, the allotment as it is finally corrected, if larger, should be used in determining whether the allotment was overplanted; but if the allotment as finally corrected is less than that erroneously issued, the acreage of the allotment shown in the erroneous notice shall be used if it clearly appears that the producer completed his planting (seeding) of cotton in reliance upon it and did not know or have good cause for believing that the allotment notice was erroneous.

As soon as it is definitely determined that an acreage in excess of the cotton acreage allotment will be devoted to cotton on a farm, the county committee shall notify in writing the interested producers on the farm that they are presumed to have knowingly overplanted their cotton acreage allotment and that they will be given 15 days in which to notify the committee whether they intend to try to rebut this presumption. All requests for a hearing must be promptly considered, and each producer making a request must be advised of the date on which a hearing will be given, such hearing in no case to be held more than 15 days subsequent to the date on which the request for hearing was filed with the county committee. All such cases must be heard by the committee and a decision rendered thereon within 30 days after the original notice that the producer was presumed to have knowingly overplanted cotton was mailed to him.

PART II. WHERE PLANTING IS COMPLETED AFTER NOTICE OF ALLOTMENT

In cases where the cotton acreage allotment is overplanted and the planting (seeding) of cotton on the farm was completed after official notice of the cotton acreage allotment was mailed to the farm operator --

A. All producers entitled to share in the cotton crop on the farm, or its proceeds, will be presumed to have knowingly planted cotton in excess of the cotton acreage allotment established for the farm.

B. The presumption raised, as described in A above, may be rebutted --

(1) as to any producer on the farm, by strict and convincing proof that the excess acreage was planted because of a bona fide mistake as to the number of acres in the field or fields planted to cotton; or

(2) as to any producer who did not participate in the planting of the cotton (either by his own labor or by labor procured or used by him for that purpose), by strict and convincing proof that the excess acreage was planted without his knowledge and without his consent, or, if planted with his knowledge but without his consent, by strict and convincing proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm.

C. Where the check of performance shows that the acreage planted to cotton exceeds the cotton acreage allotment, the presumption mentioned in A shall attach to all producers having an interest in the cotton crop on the farm. However, this presumption is not conclusive and may be overcome by a satisfactory rebuttal made as provided in B above. Producers shall be given a reasonable opportunity to present promptly such proof as they desire to submit with respect to any pertinent matters.

D. The provisions of B (1) above apply to all producers having an interest in the cotton crop on the farm but a satisfactory rebuttal by one producer on the farm shall excuse all such producers. Since a producer who is actually on the farm can, with a reasonable degree of diligence, inform himself of the number of fields planted or being planted to cotton, such a producer may excuse himself, not by proving that he did not know how many fields were planted or being planted to cotton, but only by proving, as prescribed above, that he was honestly mistaken as to the number of acres in one or more of the fields planted and that the overplanting took place because of such mistake. For example, in the case of a farm with an allotment of 15 acres, if the producer knows that fields numbered 1, 2, and 3 are being planted and honestly believes, because of measurements shown in a former survey or a deed or other information upon which a reasonable and prudent person would rely, that each field contains 5 acres, and it is subsequently ascertained that field No. 3 contains 6 acres, he should be excused. But if the producer thought that fields 1, 2, and 3 (each actually containing 5 acres) were being planted, he will not under this rule be able to rebut the presumption raised against him if field No. 4 is also planted.

E. The provisions of B (2) above apply only to persons who do not participate in the planting of cotton on the farm (either by their own labor or by labor procured or used by them for that purpose), but who are classed as cotton producers simply because they have an interest in the cotton crop. Such a producer may overcome the presumption raised against him by proving (by contemporaneous correspondence or records or the testimony of persons, including himself, as to matters within their own knowledge) that he not only did not know how many fields on the farm were being planted to cotton but also that he exercised reasonable

diligence in trying to ascertain the number of such fields and the aggregate acreage of cotton which was being planted thereon and that he did all he could to cause the farm to be within its acreage allotment. He may also excuse himself, even if he knew that the farm was being overplanted, by proving that he did not consent to the overplanting. Since in the latter case consent will be presumed from a failure to make all reasonable efforts to prevent the overplanting, such a producer must also prove that he made every reasonable effort to prevent the overplanting. Satisfactory rebuttal by such a producer shall not excuse any other producer on the farm.

PART III. WHERE PLANTING WAS COMPLETED BEFORE NOTICE OF ALLOTMENT

In cases where the cotton acreage allotment is overplanted and the planting (seeding) of cotton on the farm was completed prior to the mailing of notice of the cotton acreage allotment to the farm operator --

A. All producers entitled to share in the cotton crop, or its proceeds, grown on the farm will be presumed to have knowingly planted, or caused to be planted, cotton in excess of the cotton acreage allotment established for the farm --

(1) if the number of acres planted to cotton on the farm exceeds the number of acres which the producer might reasonably have expected to be allotted to the farm, or

(2) if through error or oversight no notice was mailed, but the fact that cotton acreage allotments had been or were being established was known to the producer or was generally known in the neighborhood and, without making a reasonable effort to ascertain the amount of the allotment for his farm, he planted a number of acres which exceeded the acreage allotment for his farm.

B. The presumption raised, as described in A above, may be rebutted by any producer who shares in the cotton crop but who does not participate in the planting of cotton on the farm (either by his own labor or by labor procured or used by him for that purpose) by strict and convincing proof that the excess acreage was planted without his knowledge and without his consent, or, if planted with his knowledge but without his consent, by strict and convincing proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm. Satisfactory rebuttal by such a producer shall not excuse any other producer on the farm.

C. It is to be observed that the presumption raised, as described in A above, arises only when the acreage planted to cotton exceeds the cotton acreage allotment and the facts specified in A (1) or A (2) are found to exist. This differs from the presumption raised in the cases covered by Part II hereof, in that the presumption mentioned in Part II is raised by the mere fact that the planted acreage exceeds the cotton acreage allotment for the farm.

D. The rule in A (2) above is applicable only where the cotton acreage allotment for the farm is established but through error or oversight notice of the allotment is not mailed before completion of cotton planting on the farm, and the producer does not make a reasonable effort to ascertain the amount of his allotment before the planting of cotton on his farm is completed. If he makes a reasonable effort to ascertain the amount of his allotment but fails to obtain this information, the case should be decided in accordance with the rule stated in A(1) above. If he ascertains the amount of the cotton acreage allotment prior to completion of the planting of cotton on the farm, the case shall be decided in accordance with the rules set forth in Part II hereof, even though no notice of allotment is mailed.

E. In deciding whether the number of acres planted to cotton on the farm exceeds the number of acres which the producer might reasonably have expected to be allotted to the farm, careful examination should be made of all pertinent records respecting the farm and the previous farming operations of the producer thereon and full and fair consideration given to all the relevant circumstances, both favorable and unfavorable to the producer.

F. In making determinations in cases coming under this Part III, the following instructions are to be observed:

(1) if the acreage planted to cotton on the farm does not exceed the cotton acreage allotment by more than the applicable amount indicated in (a) and (b) below, the allotment shall not be considered as having been knowingly overplanted if it clearly appears from all the circumstances that in good faith a diligent effort was made to plant within the cotton acreage allotment.

(a) on farms with cotton acreage allotments of 30 acres or less, where the allotment has not been overplanted by more than 3 acres.

(b) on farms with cotton acreage allotments in excess of 30 acres, where the allotment has not been overplanted by more than the smaller of (i) 10 percent of the allotment, or (ii) 25 acres.

(2) if the acreage planted to cotton exceeds the limit set out in (1) (a) and (1) (b) above, the cotton acreage allotment shall be considered as having been knowingly overplanted unless the facts establish beyond any reasonable doubt that the producer in question had reasonable ground to expect that the allotment which would be made to the farm would equal or exceed the acreage which was planted to cotton on the farm and that under the circumstances a bona fide effort (such as making a substantial reduction in the planted acreage in the current year as compared with the acreage planted in the preceding year) was made to plant within the cotton acreage allotment.

PART IV. EXECUTION OF FORM SRS-8, "DATA FOR DETERMINING WHETHER COTTON ACREAGE ALLOTMENT WAS KNOWINGLY OVERPLANTED"

Form SRS-8, "Data for Determining Whether Cotton Acreage Allotment Was Knowingly Overplanted" (hereinafter referred to as Form SRS-8), a copy of which is attached, must be executed in the county office for each farm on which the cotton acreage allotment is ~~exceeded~~ by more than the limit set out in paragraph F (1) of Part III hereof, if the county committee recommends that such allotment be considered as unknowingly overplanted. This includes cases where notice of the cotton acreage allotment is mailed to the producer before planting is completed, although it seems that county committees will rarely, if ever, have good ground to find the allotment unknowingly overplanted in such cases, if the limit set out in F (1) of Part III hereof is exceeded.

Form SRS-8 shall be mimeographed in the State or county office and shall be executed in duplicate. The original shall be submitted to the State office with the corresponding application for payment and the copy shall be retained in the county office files. Every applicable item of information called for on the form must be included. All other facts bearing on the case, including the acreage of cropland on the farm in the current year and the acreage in the preceding year where a substantial change has occurred, and the types of measurement used in checking performance in such years if the type of measurement is not the same in both years, should be set forth on the reverse side thereof. The term "preceding year" as used in Form SRS-8 means the program year immediately preceding the one in which the overplanting in question occurred. One Form SRS-8, properly signed by the farm operator, will excuse all the producers on the farm, if approved by the county and State committees.

PART V. EXECUTION OF STATEMENT WHERE COTTON ALLOTMENT IS KNOWINGLY OVERPLANTED BY OPERATOR BUT LANDLORD IS NOT RESPONSIBLE THEREFOR

In any case where a producer who shares in the cotton crop but who does not participate in the planting of the cotton on a farm (either by his own labor or by labor procured or used by him for that purpose) is found by the county committee not to be responsible for the overplanting of the cotton acreage allotment on such farm, by reason of the fact that the excess acreage was planted without his knowledge or consent, or if planted with his knowledge it was done without his consent, and he has shown to the committee by strict and convincing proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm, full details of the case must be set forth in a statement, in duplicate, over the signatures of the producer and at least two members of the county committee, and the original thereof attached to the application when the latter is submitted to the State office. In such cases it is not necessary that a Form SRS-8 be prepared.

PART VI. NOTICE OF KNOWINGLY OVERPLANTED FARMS

A. As soon as the hearings and the determination heretofore provided for in this procedure are completed, the county committee shall immediately prepare and submit to the State office the following

information for each farm with respect to which the presumption that the cotton acreage allotment was knowingly overplanted has not been rebutted to the satisfaction of the county committee:

(1) The farm serial number.

(2) The names of all producers interested in the production of cotton on the farm, including the name of the landlord unless it has been determined under the provisions of Part V hereof that the landlord is not responsible for the overplanting on the farm.

(3) Insofar as the county committee is able to determine, the names of the other counties in the State or the names of other States together with the names of the counties in such States where known (including Alaska, Hawaii, and Puerto Rico) in which each such producer has an interest in one or more farms, ranching units, or turpentine places, indicating after the name of the county (or of the State if the name of the county is not known) whether his interest in the county is in farms, ranching units, or turpentine places.1/

B. As soon as the State office receives notice that a producer in a county has knowingly overplanted cotton and that such producer also has an interest in one or more farms, ranching units, or turpentine places in other counties, notice will be forwarded to each such other county in accordance with the provisions of Part VII hereof. Any county office receiving a notice that a producer in that county has knowingly overplanted his cotton acreage allotment in another county or State shall immediately take steps to see that payment is not approved for such producer on any application submitted from that county under the current Agricultural Conservation, Range Conservation, or Naval Stores Conservation Program. Where prior to receipt of such notice an application for payment under one or more of those programs has been approved for such a producer, the State office shall be so advised immediately, and if any check is subsequently received in the county office for the producer under such application(s) it shall be returned to the Regional Disbursing Office for cancellation. Where payment is approved for other producers on an application in which the producer who has overplanted is interested, a copy of the notice received from the State office relative to the overplanting shall be attached to the application when it is submitted to the State office for payment. If notice is later received that the producer has satisfactorily rebutted the presumption that he knowingly overplanted cotton, an adjustment application may be submitted for such producer, or, if he is the only interested person on the application, an original application may then be submitted to the State office for payment.

1/ If the State committee later rules with respect to other farms in the county that the cotton acreage allotments were knowingly overplanted, this information shall also be submitted for the producers on such farms.

PART VII. STATE OFFICE REVIEW

A. Upon receipt of the information referred to in Part VI hereof, the State office shall forward a copy of the information submitted with respect to each producer to each applicable county in the State, a copy to the Administrative Officer in Charge of each applicable State office in the Southern Region, and two copies to the Director of the Southern Division if the producer's other interests are outside the Southern Region. The records of the State office shall be examined in order to determine whether any of the overplanted producers shown by a particular county not to be interested in other counties appears from records in connection with the present or past programs on file in the State office actually to have an interest in other counties, and if such is found to be the case, the counties or the State Administrative Officer or the Director of the Southern Division, as the case may be, shall be notified to that effect.

B. The information submitted by each county office shall be filed in a separate file in the State office. If any interested producer later rebuts the presumption that he knowingly overplanted cotton and the State committee approves the Form SRS-8 (or separate statement by the landlord) with respect to the farm, the file for the county must be checked and a statement regarding the satisfactory rebuttal must be forwarded to each office to which a statement regarding the overplanting was transmitted in the first instance.

Any State office receiving notice from another State office (or from the Director of the Southern Division) regarding a case of overplanting (or later a notice that the presumption of knowingly overplanting has been satisfactorily rebutted) shall immediately forward a copy of such notice to each applicable county office in the State.

C. Each case in which a Form SRS-8 (or a statement in accordance with the provisions of Part V hereof) is submitted to the State office shall be carefully considered by the State committee. If the committee determines that the allotment for the farm covered by the Form SRS-8 was knowingly overplanted or that the landlord for whom the statement was submitted should not be excused for the overplanting of the cotton acreage allotment on the farm in question, it shall notify the county committee accordingly. If the State committee concurs in the recommendation of the county committee, it shall indicate its approval on the reverse side of Form SRS-8 or on the bottom of the statement respecting the landlord. The finding of the State committee in such cases shall be final unless any producer affected by the finding appeals from an adverse decision of the State committee.

Issued July 17, 1941, with the approval of the Administrator.

J. W. Huggan

SRS-8 (Sample)
United States Department of Agriculture
Agricultural Adjustment Administration
Southern Division

(State and county code and farm
serial No.)

(Name of county)

194 PROGRAM YEAR
DATA FOR DETERMINING WHETHER COTTON ACREAGE
ALLOTMENT WAS KNOWINGLY OVERPLANTED

1. The undersigned producer requests and the county committee recommends that the cotton acreage allotment on the farm identified above be considered as unknowingly overplanted in the above indicated year for the reasons here fully stated (if more space is needed, use reverse side):

2.	Preceding Year	Current Year
(a) Final cotton allotment		
(b) Acreage planted to cotton		

3. Is the farm operator the same person as the farm operator in the preceding year? (Yes or No) _____
4. Original notice of allotment, showing _____ acres, was mailed on _____, 194__
5. Corrected notice of allotment, showing _____ acres, was mailed on _____, 194__
(Note: Explain on reverse side any error in original notice of allotment)
6. Date seeding of cotton was completed on this farm _____, 194__
7. Date notice of measured acreage of cotton was mailed to operator _____, 194__
8. Date on which cotton picking began on this farm _____, 194__
9. Date first picking of entire cotton acreage on farm was completed _____, 194__
10. Producer(s) plowed up _____ acres of unpicked cotton on this farm on _____, 194__
11. Other farms in county in which this producer has an interest:

Serial No.								Total
Cotton allotment								
Cotton planted								

(Signature of producer)

(Signature of county committeeman)

(Date)

(Signature of county committeeman)

(Signature of county committeeman)

